



GOVERNOR OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
GOVERNOR

P.O. Box 720  
(573) 751-3222

July 3, 2013

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you House Bill No. 339 entitled:

AN ACT

To amend chapter 303, RSMo, by adding thereto one new section relating to the forfeiture of collecting noneconomic damages for failing to comply with the motor vehicle financial responsibility law.

I disapprove of House Bill No. 339. My reasons for disapproval are as follows:

House Bill No. 339 would prohibit an "uninsured motorist" from having a cause of action or "otherwise collect[ing] for noneconomic loss" arising out of a motor vehicle accident if the uninsured motorist attempts to recover damages from a motorist who is in compliance with motor vehicle financial responsibility requirements. House Bill No. 339 cannot receive my approval because it is riddled with ambiguity that will generate excessive litigation over how and to whom its provisions would apply.

Significantly, House Bill No. 339 does not adequately define the term "uninsured motorist," which is the very crux of the bill. An "uninsured motorist" is defined as "[a]n uninsured driver who is the owner of the vehicle; [a]n uninsured permissive driver of the vehicle; and [a]ny uninsured nonpermissive driver," yet there is no definition of "uninsured." Given the magnitude of barring an individual's access to the courts, it is unacceptable to leave this key term open to interpretation.

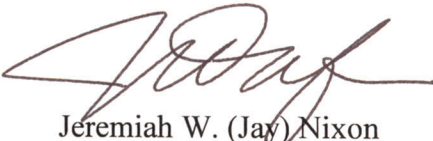
The above ambiguity is exacerbated by the uncertainty as to whether House Bill No. 339 would bar an uninsured motorist from a cause of action in its entirety or simply from recovering a category of damages. Under Section 303.390.1 of the bill, an "uninsured motorist shall waive the ability to have a cause of action or otherwise collect for noneconomic loss," which presumably contemplates that in some instances the motorist would be barred from bringing a cause of action altogether. Yet, Section 303.390.4 of the bill states that "[n]othing in this section shall be construed to preclude recovery against an alleged tort-feasor of benefits provided or

economic loss coverage.” In addition, Section 303.390.3 of the bill provides for a reduction in damages equal to the portion of an award representing compensation for noneconomic losses. Read in conjunction, Sections 1, 3 and 4 of the proposed Section 303.390 presumably contemplate an action solely for “economic loss,” but that is far from clear.

It is also unclear as to how the exceptions to the waiver under Section 303.390.1 of House Bill No. 339 would work procedurally. Section 303.390.1 of the bill provides that the waiver does not apply “if it can be proven [sic]” that the other motorist was under the influence of drugs or alcohol, was convicted of involuntary manslaughter or assault in the second degree, and caused the accident in whole or in part. The foregoing are questions of fact, but the bill does not specify who is to be the finder of these facts. Although factual determinations are typically reserved to juries, under Section 303.390.3(2) of the bill, the trier of fact is prohibited from being informed of “such waiver.” If waiver is a legal determination, then that would be the province of the judge, yet that is not addressed in the bill.

In accordance with the above stated reasons for disapproval, I am returning House Bill No. 339 without my approval.

Respectfully submitted,



Jeremiah W. (Jay) Nixon  
Governor